

Manufacturers, importers and wholesalers may enter into agency agreements with the Department, whereby they register, file returns and remit sales tax on behalf of retailers selling their products. See 86 Ill. Adm. Code Section 130.550. (This is a GIL).

December 14, 2000

Dear Xxxxx:

This letter is in response to your letter dated October 23, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

Please be advised that I represent a direct selling company who expects to begin operations on January 1, 2001.

My client will sell various consumer products to independent business owners (hereinafter referred to as consultants) on a sale for-resale basis at wholesale prices. These consultants will retail the products to the general public.

It is the desire of my client to enter into a voluntary sales and/or use tax collection agreement with your jurisdiction to simplify the administration and compliance of the sales and/or use taxes on the client's products sold by the consultants to their customers.

My client recognizes that this agreement will be beneficial to all parties. My client believes that your jurisdiction will receive the following benefits from this type of arrangement:

Earlier remittance of sales and/or use tax. My client will precollect the applicable sales and/or use tax when the products are invoiced to the consultant. The tax collected (based on the suggested retail price or actual selling price if known and subject to adjustments, if any, described in the attached agreement) will be remitted as required. Since the tax will be remitted by the client in lieu of remittance by each consultant my client believes that your jurisdiction may receive its tax approximately 30 to 60 days earlier than it would if the agreement were not in place.

Only one agent for administration, collection and remittance of the tax. This agreement will eliminate the need for each consultant to register for, collect and remit your sales and/or use tax.

Administrative cost reduction. This agreement will reduce the volume of accounts that you will be required to administer. This will reduce in the number of returns you must mail, review, correct and audit. Thus there should be a reduction in administrative costs.

Enclosed are two copies of the agreement for your review. If you find the agreement to be satisfactory, please complete the Taxing Jurisdiction address section on page 5 and have the appropriate official(s) sign and return both copies to the undersigned. After the agreements are received, my clients name will be inserted where required, countersigned and one copy returned to you for your records.

At the present time, it is my clients desire to begin collecting your sales and/or use tax on January 1, 2001. Therefore, we request your immediate attention be given to this matter to insure adequate time to notify the consultants.

If you have any questions on this agreement, please contact the undersigned.

When a seller of tangible personal property registers with and obtains a Certificate of Registration from the Illinois Department of Revenue, it gains the right to sell at retail its products in the state of Illinois and in turn, assumes the duty to file returns and remit the tax collected on those sales. In the event a seller registered with the Department sells its products to an independent distributor for the purpose of resale, a Certificate of Resale must be obtained from the distributor in order to be relieved of the duty to collect and remit the sales tax on the products purchased for resale. The requirements for obtaining Certificates of Resale are provided in the enclosed copy of 86 Ill. Adm. Code Section 130.1405.

Manufacturers, importers or wholesalers may, however, enter into an "agency agreement" with the Department, whereby they register, file returns and remit sales tax on behalf of their independent distributors. Please find enclosed a copy of 86 Ill. Adm. Code Section 130.550, the regulation explaining how to enter into such an agreement. Under this type of agreement, the manufacturers, importers or wholesalers sell their products to the distributors and collect tax from the distributors based on the selling price of the products to the ultimate consumer. The tax therefore, is not calculated on the selling price to the distributor, but rather the applicable tax is calculated and collected based on the selling price of the product at retail. Under such an agreement, the independent distributor is not required to register with the Department, file a return and remit the tax because those duties have been assumed by the manufacturer, importer or wholesaler.

An independent distributor that agrees to allow the manufacturer, importer or wholesaler to register and remit taxes on its behalf should keep a copy of the agency agreement as proof that it is relieved from the duty to register and remit taxes on products sold at retail. A distributor may opt out of the agency agreement where the distributor wishes to register and remit its own taxes.

We are unable to utilize the agreement you included with your letter, however, enclosed with this letter you will find a RR-80, Agency Agreement, which may be used to obtain approval for this type of agreement with the Department. Department approval is subject to any written objections of the retailers that would be affected under such an arrangement. The agreement may be submitted to

the attention of Mr. Norman Clark, Illinois Department of Revenue, 101 West Jefferson, Springfield, Illinois 62794.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.